

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

PAUL MICHAEL MISCH,

Petitioner,

v.

Civil Action No. 5:07CV172
(STAMP)

WAYNE PHILLIPS, Warden,

Respondent.

ORDER GRANTING PETITIONER'S MOTION TO DISMISS

On December 31, 2007, the petitioner filed an application for habeas corpus pursuant to 28 U.S.C. § 2241. The matter was referred to United States Magistrate Judge John S. Kaull pursuant to Local Rule of Prisoner Litigation Procedure 83.09. On January 16, 2008, Magistrate Judge Kaull issued an order directing the respondent to show cause why the writ should not be granted. On February 21, 2008, the respondent filed a motion to dismiss as moot, or in the alternative, a motion to dismiss for failure of the petitioner to exhaust administrative remedies. On February 26, 2008, the petitioner filed a motion to dismiss his § 2241 petition, without prejudice. The petitioner's motion to dismiss this action without prejudice is hereby GRANTED.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to counsel of record herein.

DATED: March 4, 2008

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE